

**MINUTES
LANCASTER COUNTY BOARD OF EQUALIZATION
TUESDAY, AUGUST 29, 2000
COUNTY COMMISSIONERS CHAMBERS
FIRST FLOOR, COUNTY-CITY BUILDING
1:30 P.M.**

Commissioners Present: Kathy Campbell, Chair
Larry Hudkins, Vice Chair
Bernie Heier
Linda Steinman
Bob Workman

Others Present: Norm Agena, County Assessor
Kerry Eagan, Chief Administrative Officer
Dave Johnson, Deputy County Attorney
Bruce Medcalf, County Clerk
Gwen Thorpe, Deputy County Clerk

- 1) **MINUTES: Approval of the minutes of the Board of Equalization meeting held on Tuesday, August 22, 2000. (A copy of these minutes is on file in the Office of the Lancaster County Clerk.)**

MOTION: Hudkins moved and Workman seconded approval of the minutes of the Board of Equalization meeting dated August 22, 2000. Campbell, Hudkins, Workman and Steinman voted aye. Heier abstained. Motion carried.

- 2) **ADDITIONS AND DEDUCTIONS:**

Approval of 11 additions and deductions to the tax assessment rolls per Exhibit A.

MOTION: Workman moved and Heier seconded approval. Heier, Campbell, Steinman, Hudkins and Workman voted aye. Motion carried.

3) **APPROVAL OF MOTOR VEHICLE TAX EXEMPTIONS:**

**Capitol City Christian Church
Congregation of Mary Queen
Grace Lutheran Church
Lincoln Lancaster County Child Guidance Center, Inc.
Madonna Rehabilitation Hospital
Sacred Heart Church
Saint Elizabeth Regional Medical Center**

MOTION: Heier moved and Steinman seconded approval of motor vehicle tax exemptions for Capitol City Christian Church, Congregation of Mary Queen, Grace Lutheran Church, Lincoln Lancaster County Child Guidance Center, Inc., Madonna Rehabilitation Hospital, Sacred Heart Church and Saint Elizabeth Regional Medical Center. Steinman, Workman, Heier, Campbell and Hudkins voted aye. Motion carried.

4) **DENIAL OF A MOTOR VEHICLE TAX EXEMPTION:**

All Nations Church of the Lord Jesus Christ

MOTION: Steinman moved and Heier seconded to accept the County Treasurer's recommendation and deny the motor vehicle tax exemption for All Nations Church of the Lord Jesus Christ because it was untimely filed. Workman, Hudkins, Campbell, Steinman and Heier voted aye. Motion carried.

The Chair recessed the Board of Equalization until 3 p.m. when it was reconvened.

5) **NOTICE OF VALUATION CHANGE FOR OMITTED OR UNDERVALUED PROPERTY FOR THE FOLLOWING:**

S B Partners

The County Assessor indicated that an apartment building was listed on the incorrect account. The new value would be \$3,303,203.

SSI Investments LLC

The County Assessor explained the building was owned by SPF Swine Accreditation which had been exempt for a number of years. When the building was listed on the account the value of the improvement was not included. The new value would be \$204,900.

Vincent Okwumuo

The County Assessor stated the building is occupied by a restaurant called George's Red Pepper Grill. He also noted that there was a single family residence listed and that the new value, including the house, would be \$125, 600.

MOTION: Steinman moved and Heier seconded to accept the County Assessor's recommendation and set the new values as follows: S B Partners at \$3,303,203; SSI Investments LLC at \$204,900 and Vincent Okwumuo at \$125,600. Steinman, Workman, Heier and Campbell voted aye. Hudkins was absent from voting. Motion carried.

6) **ADJOURNMENT:**

By direction of the Chair, the Board of Equalization meeting was adjourned.

Bruce Medcalf
County Clerk

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County Commissioners: Kathy Campbell, Chair
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The Chair announced that an error had been made in the *Journal Star*, Section D, Page Two, regarding a hearing to be held by the County Board in relation to a long range transportation plan at 6 p.m. in Room 112 of the County-City Building. Instead, the informational meeting will be held at Gere Library at 6 p.m. by the Planning Department.

- 1) **MINUTES: Approval of the minutes of the Board of Commissioners meeting held on Tuesday August 22, 2000. (A copy of these minutes is on file in the Office of the Lancaster County Clerk.)**

MOTION: Hudkins moved and Steinman seconded approval of the minutes of the Board of Commissioners meeting dated August 22, 2000. Campbell, Hudkins, Workman and Steinman voted aye. Heier abstained. Motion carried.

- 2) **CLAIMS: Approval of all claims processed through Tuesday, August 29, 2000.**

MOTION: Workman moved and Heier seconded approval. Heier, Campbell, Steinman, Hudkins and Workman voted aye. Motion carried.

- 3) **SPECIAL PRESENTATIONS:**

The County-City Volunteer of the Month Award was presented to Mark Schorr, nominated by the Personnel Department.

4) **NEW BUSINESS:**

A. Adoption of the Lancaster County and the Rural Library's budget for 2000/2001.

Dave Kroeker, Budget and Fiscal Officer, appeared and gave a brief summary regarding documentation distributed reflecting proposed changes in the budget (Exhibit A).

Campbell requested Lauren Wismer with Cline, Williams, Wright, Johnson & Oldfather law firm and bond counsel in connection with the financial transaction for the Agricultural Society, appear and give a brief explanation regarding the deletion of the Agricultural Society from the budget.

Wismer explained it has been determined that for the first year the funding for the Ag Society's needs would come from the Ag Society budget and levy and that it would not be a part of the County's budget. He said once the Joint Public Agency between the County and the Ag Society is organized it will have its own budget and levy authority.

Hudkins asked how much money would be allocated to the Railroad Safety Transportation District (RTSD) and how much money was in reserve from prior years.

Kroeker indicated \$2,959,302 would be allocated.

Heier stated there was approximately \$12 million in reserve.

In response to a question asked by Hudkins regarding proposed expenditures, Steinman stated the budget spreads over a number of years. Projected expenditures would involve using the proposed allocation as well as reserve monies.

Steinman said some of the \$2.9 million could possibly be used for the new ballpark and to provide for better crossings and overpasses in relation to the Antelope Valley project. She also added that there still is a possibility for construction of an overpass at Firth.

Hudkins stated he is concerned about underpasses in the City of Lincoln because of a poor track record when water needs to be evacuated. He also said he hopes that the Planning Department reviews 35th and Cornhusker being at grade.

He added that he hoped that the members of the County Board who sit on the RTSD Committee push for strategic planning in the future.

Campbell suggested that Commissioner Hudkins' questions be posed at the September Commons meeting.

4) **NEW BUSINESS CONTINUED:**

MOTION: Hudkins moved and Heier seconded adoption of the Lancaster County and the Rural Library's budget for 2000-2001 with adjustments. Hudkins, Steinman, Workman, Heier and Campbell voted aye. Motion carried.

B. A resolution determining final allocation of levy authority to all political subdivisions subject to the Lancaster County levy authority. (R-00-105)

MOTION: Steinman moved and Campbell seconded to divide the issue of the levy authority and to remove the Agricultural Society from the County budget.

Steinman asked Dave Johnson, Deputy County Attorney, if the item could be deferred to a date specific in order to address a number of concerns from constituents.

Dave Kroeker, Budget and Fiscal Officer, explained that the County Board must make the final levy allocation by September 1st, however, they could defer until Thursday, August 31st.

ROLL CALL: Heier, Workman and Hudkins voted no. Steinman and Campbell voted aye. Motion failed three to two.

MOTION: Hudkins moved and Workman seconded approval of Resolution 00-105.

Campbell suggested that any questions regarding the Ag Society be addressed at the September 5th staff meeting.

ROLL CALL: Hudkins, Steinman, Workman, Heier and Campbell voted aye. Motion carried.

C. Clarification of the procedure for consideration of whether the ballot question of consolidation of the Lancaster County Register of Deeds and Lancaster County Assessor's Office should be submitted to the registered voters for approval at the next general election.

Campbell stated she was asked a question regarding the meaning of the two to two tie on the motion made on August 22, 2000 regarding placement of the consolidation issue on the November ballot.

4) **NEW BUSINESS CONTINUED:**

She indicated she had requested Kerry Eagan, Chief Administrative Officer, place the item back on the agenda and that he also write a letter to the County Attorney's Office requesting a written opinion posing some of the questions which she had been asked.

Dave Johnson, Deputy County Attorney, stated he was prepared to give the County Board an opinion and indicated that a question arose concerning whether a motion to place the issue on the November ballot could be made at the County Board meeting scheduled on August 29, 2000. The County Board's open meeting policy was adopted in Resolution 5465 and provides that *Robert's Rules of Order* "shall serve as a procedural guide for all meetings of the County Board, but strict adherence to the Rules shall not be required".

Johnson indicated that the questions were as follows:

- Are there any provisions under *Robert's Rules of Order* which address the situation?
- How would you recommend the County Board to proceed on the motion?
- Is there anything in the language of Nebraska Revised Statute 22-417, which is the consolidation statute, that would provide guidance with regard to the issue?

With regard to §22-417, Johnson said, the County Board met the notice requirements for the public hearing. After the hearing a motion was made and failed, however, *Robert's Rules of Order* provides that "a motion itself can be reconsidered by the side prevailing on the motion". Johnson stated a negative motion was made in which Commissioners Steinman and Campbell were the prevailing side. The Rules also indicate that an individual who was absent from the meeting or who did not vote at all can also ask for reconsideration of the motion. Johnson stated that upon review of *American Jurisprudence 2d* and *Mcquillan's Law and Municipal Corporations* that a board of this nature can reconsider any matter that it wishes. He noted that no case law on point was found with regard to the matter.

Johnson referred to a factual issue raised with regard to Commissioner Heier being absent from the hearing. He stated he did find a case in Maryland which indicated that the norm was that a Commissioner could review video and/or audio tape(s) to familiarize oneself with the matter before the Board on the day they were absent and that they may vote at a subsequent hearing. Johnson explained that in that particular case there were specific statutes indicating that could not be done with regard to Maryland's board, however, that does not exist with the issue before the Lancaster County Board. Commissioner Heier could participate if he indicates in the record that he has reviewed the video tape with regard to the hearing and any other matters.

4) **NEW BUSINESS CONTINUED:**

Johnson stated that statute does not address the matter, particularly §22-417 does not say that the County Board has to act immediately.

Johnson made the County Board aware of the following factual issues which some sort of challenge could be brought forth by individuals:

- Absence of Commissioner Heier from the meeting.
- Question posed by Commissioner Campbell with regard to any other motions to continue the matter for discussion or table the matter until Commissioner Heier could be present or to table the matter for one week. (Johnson indicated no motions were made and that he had found no information which would indicate that the question posed by Commissioner Campbell would be fatal to the Board's reconsideration of the issue.)
- Commissioner Campbell indicated that the issue was, at that point in time, dead. (No information was found which would indicate that the statement would bind the County Board to not be able to reconsider the issue or that it would be fatal to the issue.)

He further stated he had received a telephone call from an attorney in Lincoln who had concerns regarding the reconsideration. Johnson stated he informed the attorney that he could present any information with regard to a reason why the County Board could not reconsider the motion. He said he had also offered to review those avenues. One of the factual points, Johnson said, which was brought to his attention by the attorney, was that the item was placed under "New Business" on the County Board's agenda. Johnson indicated that his research found that the placement would not be fatal to the reconsideration of the issue.

Johnson said the facts presented as a whole or argued separately should be considered by the County Board in determining whether consolidation should be addressed at their present meeting. He indicated to the Board that beyond that it's more of a policy decision.

Campbell stated comments would be taken regarding the procedure.

In response to a question asked by Heier, Johnson responded that the public hearing had been closed.

MOTION: Steinman moved and Heier seconded that the issue of consolidation of the Lancaster County Register of Deeds and the Lancaster County Assessor's Office be reconsidered by the County Board.

Heier indicated he had reviewed the video tape twice which was the basis for him seconding the motion.

4) **NEW BUSINESS CONTINUED:**

Workman commented that he was somewhat disappointed that the public hearing would not be opened again.

Johnson stated there would be no hearing held because the notice was published three times and because there was a motion for the hearing to be closed on August 22, 2000.

Hudkins indicated that he was also disappointed that the public hearing would not be reopened. He said it was extremely unfortunate that Commissioner Heier is being asked to make a decision regarding a hearing which he did not hear in person and in which he was unable to interact.

Peter Katt, attorney, appeared and explained his reasons for representing Dan Nolte in the matter. He also stated that if the County Board reconsiders the matter it would be a policy question. He stated the issue is about process and how to move forward in redefining the role of government and adapting to information technology. Katt stated the only message the County Board would give to the voters by placing the issue on the November ballot is that there might be a \$100,000 savings and that they hope they don't destroy the excellent service which both offices provide as a result of the consolidation.

Wayne Giebelhaus, Vice Chair of the Consolidation Committee, reiterated the statement from the Consolidation Committee that "consolidation of Lancaster County elected officials will not be based on turf protection, personalities or politics, but on the ability to create efficiency, non-duplication of services and tax savings to the citizens of Lancaster County".

ROLL CALL: Steinman, Heier, Workman and Campbell voted aye. Hudkins voted no. Motion carried four to one.

4) **NEW BUSINESS CONTINUED:**

D. Determination regarding whether the consolidation of the Lancaster County Register of Deeds and Lancaster County Assessor's Office should be submitted to the registered voters for approval at the next general election, pursuant to Nebraska Revised Statutes §22-417 (Reissue 1997). The holder of each of these offices to be consolidated shall have his term of office end on the first Tuesday in January following the general election in which the holder of the consolidated office is selected.

The Register of Deeds maintains Lancaster County records on deeds, mortgages, instruments and writings authorized by law. The County Assessor supervises and directs assessment of all property in Lancaster County.

Peter Katt, attorney representing Dan Nolte, appeared and asked if the item was open for public hearing.

Dave Johnson, Deputy County Attorney, stated it was not open for hearing.

Katt requested the record reflect that the item appears under "D" on the County Board agenda and that in the normal course an item appearing under New Business on the County's agenda would be open for public hearing and comment.

Katt indicated he would like the record to be very clear that the opportunity for public hearing and comment had been denied.

Johnson stated for the record that on August 22, 2000 the County Board did receive information and testimony with regard to a public hearing. Also taken into the record on August 22, 2000 were two exhibits.

MOTION: Steinman moved and Heier seconded approval that a resolution be drafted for adoption on Thursday, August 31, 2000 which would submit the issue of consolidation of the Lancaster County Register of Deeds Office and the Lancaster County Assessor's Office to the registered voters for approval at the next general election as provided by statute.

Heier reiterated that he had reviewed the video tapes twice. He added that he also received many telephone calls, both pro and con.

He further stated that he doesn't know if consolidating the two offices will save any money or that the timely filings would be slower or faster. Heier added that it is the citizens' right to vote on the issue.

4) **NEW BUSINESS CONTINUED:**

Workman asked if the County Board should have consulted with other states to see where consolidation has failed or succeeded. Could they have explained in more specific detail the \$100,000 savings?

He suggested that the correct question to come before the voters would be whether they want elected officials in the following offices: Assessor, Register of Deeds, Treasurer or Clerk.

Workman stated he was very disappointed that the proponents of the issue didn't present a very good case and that no public hearing was held on August 29, 2000. He added he would maintain a no vote on the motion.

Hudkins stated he would also oppose the motion and felt that the issue before the County Board was the poorest proposal he had seen during his 12 years in office.

He further stated that he has not been convinced by the committee that consolidation of the two offices is right.

Hudkins also questioned whether standard policy was followed in submitting a request for a written opinion from the County Attorney.

Campbell indicated she feels the issue should be rightfully decided by the voters. She added that she believes county government in the 21st century has to look at different ways of conducting business and how the citizens of Lancaster County can be better served.

ROLL CALL: Commissioners Heier, Campbell and Steinman voted aye.
Commissioners Workman and Hudkins voted no. Motion carried three to two.

New Business Item 4Q was moved forward on the agenda.

Q. A request from Gary Lacey, Lancaster County Attorney, to appoint Joseph Kelly to be Chief Deputy County Attorney and set his salary at \$87,895. (M-00-77)

MOTION: Steinman moved and Heier seconded approval. Steinman, Workman, Campbell, Hudkins and Heier voted aye. Motion carried.

4) **NEW BUSINESS CONTINUED:**

E. An application for a Special Events Permit from Team Kaos Cycling Club to hold a bicycle race on Sunday, September 10, 2000 beginning at 8 a.m. The planned route for the race begins at the marina at Branched Oak Lake and proceeds clockwise around the lake, using West Rock Creek Road, Raymond Road and Northwest 140th Street.

By direction of the Chair, the item was deferred to Tuesday, September 5, 2000 at the request of the applicant.

F. Authorization of Wells Fargo Bank, as Trustee, to disburse \$8,061.63 from the juvenile detention center bond proceeds to Sinclair Hille Architects for architectural services for the Juvenile Detention Center. (M-00-73)

MOTION: Hudkins moved and Workman seconded approval. Heier, Workman, Steinman, Campbell and Hudkins voted aye. Motion carried.

G. A disbursement from the Lancaster County Leasing Corporation Renewal and Replacement Fund to Gagner Restoration, Inc., in the amount of \$16,114, for caulking and painting exterior trim for Lancaster Manor. (M-00-74)

MOTION: Workman moved and Heier seconded approval. Steinman, Hudkins, Heier, Workman and Campbell voted aye. Motion carried.

H. An agreement with the Village of Bennet to assign one Lancaster County Sheriff's Deputy to the Village. The contract is a one year contract renewable for a second year and the term is September 1, 2000 to August 31, 2001. The Village will pay an overtime rate for each hour worked. (C-00-419)

MOTION: Heier moved and Steinman seconded approval. Workman, Campbell, Hudkins, Steinman and Heier voted aye. Motion carried.

I. Amendment to Contract #6633 with the Nebraska Department of Health and Human Services. The original contract provides assistance in administering Nebraska's State Plan for Child Support Collection and the Establishment of Paternity. The amendment extends the term of the agreement until December 31, 2001. (C-00-418)

MOTION: Steinman moved and Heier seconded approval. Hudkins, Workman, Heier, Campbell and Steinman voted aye. Motion carried.

4) **NEW BUSINESS CONTINUED:**

J. Amendment to an agreement for provision of contracted services with Martin Luther Homes of Nebraska, Inc. The Amendment extends the contract to May 1, 2001. The original agreement provides the County with paper shredding services. (C-00-417)

MOTION: Hudkins moved and Workman seconded approval. Campbell, Heier, Steinman, Workman and Hudkins voted aye. Motion carried.

K. Request from Kit Boesch, Human Services Director, for approval of Keno Human Services Prevention funding. The total allocation request for the County and City is \$36,000. (M-00-75)

MOTION: Steinman moved and Hudkins seconded approval. Hudkins, Campbell, Steinman, Heier and Workman voted aye. Motion carried.

L. A contract with DayWatch Incorporated to provide transportation services through the Community Mental Health Center. DayWatch will reimburse the County \$15,305. The term of the agreement is August 1, 2000 through July 30, 2001. (C-00-420)

MOTION: Steinman moved and Heier seconded approval. Campbell, Hudkins, Heier, Workman and Steinman voted aye. Motion carried.

M. Request from Ron Busch, an employee with Lancaster Manor, to voluntarily participate in the Lancaster County Retirement Plan. (M-00-76)

MOTION: Workman moved and Hudkins seconded approval. Heier, Campbell, Steinman, Hudkins and Workman voted aye. Motion carried.

N. Recommendation from the Purchasing Agent and the RFP Review Committee to award a bid for providing I.V. & Nutritional Infusion services to PharMerica (Omaha, Nebraska) for Lancaster Manor. The award is for a 3-year contract with the option to renew for one additional 3-year period with mutual consent. Pricing for prescription and non-prescription items will be billed in compliance with the State of Nebraska, Department of Public Welfare published fee schedule, direct to Medicaid or other insurance providers. (B-00-30)

MOTION: Workman moved and Hudkins seconded approval. Steinman, Workman, Heier, Campbell and Hudkins voted aye. Motion carried.

4) **NEW BUSINESS CONTINUED:**

O. A tort claim in the amount of \$500,000 filed by Catalina Quintana, personal representative of the estate of Rachel Quintana.

By direction of the Chair, the item was deferred to Tuesday, September 26, 2000.

P. A resolution increasing the County's contribution to the Post Employment Health Plan for unclassified employees to \$25 per pay period, per employee, effective the pay period beginning August 24, 2000. (R-00-104)

MOTION: Hudkins moved and Steinman seconded approval of Resolution 00-104. Hudkins, Steinman, Workman, Heier and Campbell voted aye. Motion carried.

Q. A request from Gary Lacey, Lancaster County Attorney, to appoint Joseph Kelly to be Chief Deputy County Attorney and set his salary at \$87,895. (M-00-77)

This item was moved forward on the agenda.

5) **CONSENT ITEMS:** These are items of business that are routine and which are expected to be adopted without dissent. Any individual item may be removed for special discussion and consideration by a Commissioner or by any member of the public without prior notice. Unless there is an exception, these items will be approved as one with a single vote of the Board of Commissioners. These items are approval of:

A. Receive and Place on File:

- 1. Lincoln City Libraries Director's Report for July, 2000.**
- 2. County Board Inventory of County Real Estate.**

B. Setting of a public hearing for Tuesday, September 5, 2000 at 1:30 p.m. in the County Commissioners Chambers, Room 112, on the first floor of the County-City Building regarding final tax request for Lancaster County and the Rural Library.

5) **CONSENT ITEMS CONTINUED:**

C. **Setting of public hearings for Tuesday, September 19, 2000 at 1:30 p.m. in the County Commissioners Chambers, Room 112, on the first floor of the County-City Building regarding the following:**

1. **County Final Plat No. 00019, Countryside Estates, requested by Lyle Loth of ESP on behalf of Ron and Janice Skoda, for 7 residential lots and one outlot for a private roadway, on property generally located on the north side of West Denton Road at SW 70th Street.**
2. **Creation of a Joint Public Agency. The Joint Public Agency is being created to issue bonds for the construction of capital improvements on the Lancaster County Fairgrounds. The public agencies initially participating in the Joint Public Agency are Lancaster County and the Lancaster County Agricultural Society.**

D. **Receive Notice of Cancellation for service agreement with Solutions, Inc. and place on file with the original contract. (M-00-78)**

E. **Right-of-way contracts between the County Engineer and Ivy Lucile Axberg and Lucia D Axberg, in the total amount of \$5073.78, on Fletcher Avenue from Bridge H-60 to North 148th Street; Project C55-H-409(1). (5 contracts) (C-00-422 through C-00-426)**

F. **A contract between the County Engineer and Midwest Right-of-Way Services, Inc., in the amount of \$19,000, for consulting services on South 68th Street from Hickman to Saltillo Road; Project STPE-3265(6). (C-00-421)**

MOTION: Workman moved and Hudkins seconded approval of the Consent Items. Heier, Workman, Hudkins, Campbell and Steinman voted aye. Motion carried.

6) **ADJOURNMENT:**

MOTION: Heier moved and Workman seconded adjournment of the Board of Commissioners meeting. Workman, Heier, Campbell and Steinman voted aye. Hudkins was absent from voting. Motion carried.

Bruce Medcalf
County Clerk